

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-4 are in the application.

In the Official Action, the Examiner rejected claim 1 under 35 U.S.C. §102(b) as being allegedly anticipated by Huybert (U.S. Patent No. 2,752,918).

It is noted that at page 5 of the Office Action, the Examiner responded to Applicant's previous arguments and stated the following:

Applicant argues that Huybert does not teach means for holding the needle in the injection position, however, this is not found persuasive. As seen in Figure 2, the needle of the device is held in the injection position by the urging of spring 48. Further, after injection is completed, this means for holding the needle in the injection position is released in order to retract the needle (col. 4, lines 5-20).

The Examiner's assertions are respectfully traversed.

Huybert is directed to a hypodermic injection apparatus which is shown in Figure 1 in a pre-use state. The apparatus includes a needle 27 which is **normally** covered by nosepiece 21. (Col. 2, ll. 4-8). The needle 27 is fixed to a stem 29 which includes a notch 31. Plate 32 sits in the notch 31 in the normal state to prevent movement of the stem 29. (Col. 2, ll. 16-20). Thus, in the normal state, the needle 27 is covered by the nosepiece 21, as shown in Figure 1.

With the release of the notch 31 from the plate 32, as shown in Figure 2, the needle 27 is caused to be driven from the nosepiece 21 under force of the spring 35. (Col. 3, ll. 38-59). Post-injection, the needle 27 is caused to return to the retracted state housed within the nosepiece 21, with the plate 32 nesting in the notch 31. (Col. 4, ll. 5-25).

The needle 27 is only temporarily in the injection position in Huybert. As described at col. 3, l. 52 – col. 4, l. 20, the needle 27 is urged from its normal, pre-use state where it is housed within the nosepiece 21 to the injection state, as shown in Figure 2, under force of the spring 35. Detachment of the ampule 42 from the spring 35 causes rearward movement of the stem 29 under force of the spring 48. (Col. 4, ll. 5-17). It is clear from Huybert that the needle 27 is only transiently found in the injection position. The normal position for the needle 27 is the retracted position within the nosepiece 21.

Claim 1 is directed to a device for injection of a product which includes “a body (2) receiving a hollow injection needle (4) and a container (10) containing the product to be injected”. Further, “the needle (4) and container (10) being moveable relative to said body between an injection position and a retracted position”. The device of claim 1 further includes “means (5 to 7; 28, 29) for holding the needle in the injection position, which means *normally* hold the needle (4) in said injection position, and which means can be released to permit movement of the needle (4) from the injection position to said retracted position”. In contrast, as indicated above, the Huybert reference does not have any means for holding the needle 27 normally in the injection position. Rather, as stated at col. 2, ll. 16-18, the Huybert device has a “normal position” shown in Figure 1, which is a pre-use state with the needle 27 being retracted within the nosepiece 21. Claim 1 calls for not only means for holding a needle in an injection position, but for “means [which] normally hold the needle (4) in said injection position”.

With Huybert having no configuration for normally holding the needle 27 in the injection position, Huybert does not disclose all of the elements of claim 1. Accordingly, Huybert fails to anticipate claim 1. It is respectfully submitted that claim 1 is patentable over Huybert.

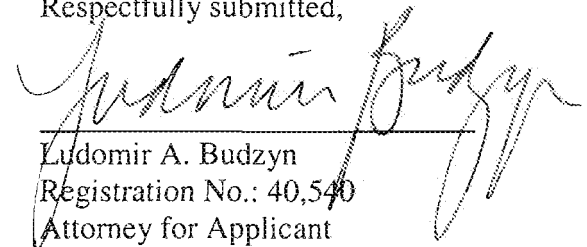
Claims 2-4 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Huybert.

Applicant: Lionel Vedrine
Application No.: 10/573,226
Filing Date: November 20, 2008
Attorney Docket No.: P-6156 (102-782 PCT/US)
Page 4 of 4

Claims 2-4 depend from claim 1. For the reasons set forth above, and as depending from claim 1, it is respectfully submitted that claims 2-4 are also patentable over Huybert.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,



Ludomir A. Budzyn
Registration No.: 40,540
Attorney for Applicant

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700